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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY  
Washington, DC 20554

In the Matter of )  
 ) CC Docket No. 94-54  
Interconnection and Resale Obligations )  
Pertaining to Commercial Mobile Radio )  
Services )

COMMENTS OF THE  
PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION

The Personal Communications Industry Association ("PCIA")<sup>1</sup> hereby submits its comments on the December 5, 1997, *Public Notice* seeking to update the record in the above-captioned docket.<sup>2</sup> Specifically, the *Notice* seeks comment on whether changes in the Commercial Mobile Radio Service ("CMRS") marketplace since the *Second Report and Order* and *Third Notice of Proposed Rulemaking* warrant Commission intervention to regulate

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<sup>1</sup> PCIA is the international trade association created to represent the interests of both the commercial and the private mobile radio service communications industries. PCIA's Federation of Councils includes: the Paging and Narrowband PCS Alliance, the Broadband PCS Alliance, the Site Owners and Managers Association, the Association of Wireless Communications Engineers and Technicians, the Private Systems Users Alliance, and the Mobile Wireless Communications Alliance. In addition, as the FCC-appointed frequency coordinator for the 450-512 MHz bands in the Business Radio Service, the 800 and 900 MHz Business Pools, the 800 MHz General Category frequencies for Business Eligibles and conventional SMR systems, and the 929 MHz paging frequencies, PCIA represents and serves the interests of tens of thousands of licensees.

<sup>2</sup> "Commission Seeks Additional Comment on Automatic Roaming Proposals for Cellular, Broadband PCS, and Covered SMR Networks," *FCC Public Notice*, CC Docket No. 95-54 (rel. Dec. 5, 1997) ("*Notice*").

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automatic roaming agreements between CMRS providers.<sup>3</sup> As discussed below, PCIA believes that FCC requirements are not justified at this time, in the absence of tangible evidence that the existing marketplace is not functioning.

In the *Third NPRM*, the Commission sought comment on whether it should adopt a “rule requiring cellular, broadband PCS, and covered SMR providers to enter into automatic roaming agreements on a nondiscriminatory basis.”<sup>4</sup> Comments responding to this proposal, in large measure, supported a “wait and see” approach, since broadband PCS carriers were just entering the market and fear of anticompetitive conduct by incumbent carriers was speculative. As PCIA observed in its reply comments, “the vast majority [of commenters] . . . agree that market forces—as opposed to regulatory intervention—should govern the development of wireless services generally, including automatic roaming among CMRS operators.”<sup>5</sup> At the same time, however, commenters noted that “roaming is critical to the competitive viability of new CMRS entrants and that the ability to offer automatic roaming is preferable to manual roaming capability alone.”<sup>6</sup> Moreover, the potential exists for established carriers to discriminate against new

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<sup>3</sup> Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services, Second Report and Order and Third Notice of Proposed Rulemaking, CC Docket No. 95-54 (rel. Aug. 15, 1996) (“*Third NPRM*”).

<sup>4</sup> *Notice* at 2.

<sup>5</sup> *Id.* at 3 & n.5, CC Docket No. 94-54 (filed Nov. 22, 1996) (citing, *inter alia*, the comments of AT&T Wireless Services, Inc., BellSouth Corporation, the Cellular Telecommunications Industry Association, Century Cellunet, Inc., GTE Mobilnet, PrimeCo Personal Communications, L.P., the Rural Cellular Association, Sprint Spectrum, L.P., Southwestern Bell Mobile Systems, Inc., 360° Communications Company, and Vanguard Cellular Systems, Inc.).

<sup>6</sup> Reply Comments of the Personal Communications Industry Association at 3 & n.4, CC Docket No. 94-54 (filed Nov. 22, 1996) (*citing, inter alia*, the comments of the Alliance of Independent Wireless Operators, Integrated Communications Group, and Western Wireless Corporation).

entrants for competitive reasons. Accordingly, PCIA argued that the Commission should continue to monitor the progress of roaming negotiations before initiating any regulatory action.

As the *Notice* suggests, the CMRS marketplace has changed substantially since comments were received on the *Third NPRM*. With new PCS licensees offering services in more than 200 markets, a large network of broadband PCS systems is now operational and many more licensees are building out their markets and rolling out service to the public. Indeed, by the end of 1997, the Commission had completed nearly all of the auctions for broadband CMRS spectrum. Against this backdrop, PCIA understands that automatic roaming agreements have been negotiated both to allow new PCS subscribers to utilize existing cellular networks while roaming and to allow cellular subscribers the benefits of PCS roaming.

The experience of PCIA's membership, which includes new broadband PCS entrants and 800 MHz SMR providers, indicates that the fear of anticompetitive conduct by CMRS carriers remains unrealized. PCIA's members have successfully been able to negotiate automatic roaming agreements at market rates and with competitive terms and conditions of service for their customers. Despite fierce competition for customers between incumbents and new entrants, no carriers to date have brought to PCIA's attention any situations where existing carriers have refused to negotiate automatic roaming agreements, negotiated in bad faith, or insisted upon discriminatory contractual provisions. And, while dual mode mobile telephones are not yet commonplace, technological innovations continue to bring such devices closer to the reach of consumers.

Because fears of anticompetitive conduct do not appear to have materialized, PCIA does not advocate adoption of an automatic roaming rule at this time. While the potential for abuse remains a concern, absent evidence of some form of market failure, PCIA does not believe

Commission intervention can be justified, especially in view of the universal sentiment that, where possible, market forces should regulate communications services instead of regulatory mandates. That being said, however, the Commission should continue to monitor the progress of automatic roaming negotiations, particularly as smaller carriers enter the market, and the Commission should not hesitate to enforce nondiscrimination obligations through its Section 208 complaint procedures in the event cases of anticompetitive conduct arise.

Respectfully submitted,

**PERSONAL COMMUNICATIONS  
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